

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

ANDREAS PEFANIS on behalf of himself
and others similarly situated,

Plaintiffs,

-against- Index No.:
08cv002 (DLC)

WESTWAY DINER, INC.,

Defendant.

-----X

757 3rd Avenue
New York, New York

March 18, 2010
4:45 P.M.

EXAMINATION BEFORE TRIAL of SALVADOR PERALTA,
the Witness herein, taken by the attorney for the
Defendant pursuant to Notice, held at the
above-stated time and place before Amanda Yannotti,
a Notary Public of the State of New York.

COPY

20

1

Salvador Peralta

2

Q Before working at Tishman Speyer, where

3

did you work?

4

A Westway.

5

Q You worked at Westway until when, do

6

you know?

7

A My last day was the 18th of April of

8

2008.

9

Q How long had you worked at Westway?

10

A The first time I started in 1992 as a

11

dishwasher.

12

Q How long were you a dishwasher?

13

A About two years in the evening.

14

Q Did your job change at Westway?

15

A At the same place but in the basement.

16

Q That was around 1994?

17

A No, around that date I came out.

18

Q You left Westway?

19

A Yes -- No, because I wanted to find a

20

job that would pay more. They increased me about

21

two hundred dollars more.

22

Q You left Westway for another job or did

23

you decide to stay at Westway?

24

A I mean I left for a while and I didn't

25

find anything. Then I returned to Westway in

1 Salvador Peralta

2 1996.

3 Q After leaving Westway and before
4 returning, did you work anywhere else?

5 A No, not at that point.

6 Q Did you collect unemployment benefits
7 during that period of time?

8 A No.

9 Q When you came back to Westway, was that
10 around 1996?

11 A Yes.

12 Q What was the job when you came back?

13 A The same. In the basement cleaning
14 from two in the afternoon until two in the
15 evening.

16 Q Do you know for how long did you have
17 that job?

18 A I don't remember but it was about three
19 years more or less.

20 Q Then did you get another job at Westway
21 or did you leave?

22 A No, I stayed there.

23 Q What changed after three years?

24 A A friend of mine had an accident right
25 there. His fingers and his hand got cut there at

22

1

Salvador Peralta

2

the job. The one that prepared cut his fingers.

3

Q Did you take his job?

4

A Yes.

5

Q When you took his job, what did you

6

call that job? Did it have a name?

7

A Preparer.

8

Q When you first got that position, that

9

was around 1999?

10

A More or less. I don't remember very

11

well what day it was but more or less.

12

Q How long did you have that position?

13

A Until 2008, then I came out.

14

Q You had the same job until you left

15

Westway?

16

A Yes.

17

Q Do you know what your hours were when

18

you first got that job as a preparer?

19

A No.

20

Q Do you remember what your salary was

21

when you first got that position?

22

A At first they gave me \$400.

23

Q That was a week?

24

A Yes.

25

Q Did that amount ever change?

1 Salvador Peralta

2 A It changed in 2004.

3 Q Do you know if that was in January 2004
4 or when was it?

5 A I don't remember.

6 Q What did it change to? How much did
7 they pay you after that?

8 A Twenty dollars more.

9 Q Is that \$420 a week?

10 A Yes.

11 Q For how long was that your salary?

12 A I believe for one year or more.

13 Q Then what did it change to?

14 A Another twenty dollars more.

15 Q Did that ever change?

16 A In 2005 they gave me ten dollars more,
17 which was \$450. It was six days and I used to
18 work ten hours a day.

19 MS. SCHULMAN: Off the record.

20 (Whereupon, an off the record
21 discussion was held.)

22 Q Mr. Peralta, for the record, you left
23 the room. Don't tell me what you told to your
24 attorney, but did you discuss what you had
25 previously told me in the deposition?

24

1

Salvador Peralta

2

A No.

3

Q You didn't discuss any of the questions

4

that I have already asked you?

5

A No.

6

Q You last told me that your last salary

7

was \$450 a week. Do you recall that?

8

A Yes.

9

Q Do you know what year that was that you

10

first received \$450 a week?

11

A It was in 2005.

12

Q For how long was your salary \$450 a

13

week?

14

A Until 2007.

15

Q Then what was your salary?

16

A Twenty dollars more.

17

Q \$470 per week?

18

A Yes.

19

Q Did that ever change?

20

A No, I changed my job.

21

Q Until you left Westway your final

22

salary was \$470 a week?

23

A It was about two checks.

24

Q After 2007, you would sometimes receive

25

two checks a week?

1 Salvador Peralta

2 Q When you started as a preparer, what
3 was your schedule?

4 A Six in the morning until four in the
5 afternoon.

6 Q What days of the week did you work when
7 you were first a preparer?

8 A Monday through Saturday.

9 Q Six days a week?

10 A Yes.

11 Q Did that schedule ever change, do you
12 know?

13 A No.

14 Q Until you left Westway you always
15 worked Monday through Saturday?

16 A Yes.

17 Q Until you left Westway you always
18 worked six a.m. to four p.m.?

19 A Yes.

20 Q What was the work that you did? What
21 were your job duties?

22 A I used to prepare the coleslaw, the
23 tuna salad, the chicken salad, I prepared the
24 turkey, meatloaf. I used to prepare the roast
25 chicken, spinach pie, and quiche Lorraine.

32

1

Salvador Peralta

2

Sometimes I prepared the roast beef,

3

the corn beef, I prepared the mozzarella stick.

4

It was a heavy job. I used to have to cut them

5

and prepare them. I used to do more than the chef

6

and I used to clean the basement.

7

Q

Do you recall ever starting work before

8

six a.m.?

9

A

I used to always arrive at five-thirty.

10

I used to always come in early. I would change

11

into my clothing and I would start to work and

12

receive the deliveries and all of that.

13

Q

Did you sign in when you came to work?

14

A

No.

15

Q

Did you clock in when you came to work?

16

A

No.

17

Q

Did you report to anybody when you

18

first came to work?

19

A

No, the owner was always there before

20

us.

21

Q

Who was that?

22

A

Sometimes it was Kyriakos or sometimes

23

Thomas. No one else. Most of the times they were

24

there.

25

Q

Do you know his first name, Kyriakos?

1 Salvador Peralta

2 A No.

3 Q Did you have a meal break any time
4 between six a.m. and four p.m. when you worked?

5 A Sometimes no.

6 Q Did you ever have a meal break?

7 A Almost no.

8 Q Would you eat any time between six a.m.
9 and four p.m.?

10 A I would taste things to see whether
11 they were good. That's all that I used to eat
12 sometimes. Sometimes I would eat a sandwich.

13 Q Would that be a sandwich that you would
14 bring from home or a sandwich from the restaurant?

15 A From the restaurant.

16 Q How often would you eat something from
17 the restaurant?

18 A Sometimes when there was a chance or
19 opportunity to eat.

20 Q In a typical week, how often would that
21 happen?

22 A Very little. Almost no.

23 Q In a typical week, how many days out of
24 the six would you not eat anything?

25 A Generally almost everyday, but as I'm

34

1

Salvador Peralta

2 saying, a little bit. I would taste things to see
3 if they were good or they had good taste and
4 nothing else.

5 Q When you were tasting, you were still
6 working, is that correct?

7 A Yes.

8 Q Do you ever recall getting time for a
9 meal break when you worked at Westway?

10 A No.

11 Q Never?

12 A Never.

13 Q Did anybody work with you downstairs
14 preparing food when you would start at six a.m.?

15 A I don't remember in what year it was,
16 they had a fellah come in to accommodate the
17 delivery.

18 Q While you were at Westway, did anybody
19 else work in the same area as you?

20 A No. I was alone for a while and then I
21 had the fellah that happened to accommodate things.

22 Q How long did he work with you?

23 A It varied because the owner was very
24 demanding and they didn't withstand the pressure.

25 Q When you did your job preparing foods,

1 Salvador Peralta

2 you said that was located in the basement, is
3 that correct?

4 A Yes.

5 Q Nobody else worked in the basement
6 while you were at Westway?

7 A Oh, yes, the baker.

8 Q Anybody else?

9 A No, just him and I.

10 Q While you worked at Westway, was it
11 always the same baker or did it change?

12 A The same -- They changed.

13 Q There were different people that were
14 bakers while you worked at Westway?

15 A Yes, the one that is currently the
16 baker, his name is Lucas.

17 Q He's still there?

18 A I think, yes.

19 Q How long has he been at Westway, do you
20 know?

21 A I believe about three years. He goes
22 and he comes.

23 Q What were his hours when you were
24 working there?

25 A They have better hours than us.